

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

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ALLSTATE INSURANCE COMPANY;  
ALLSTATE PROPERTY & CASUALTY  
INSURANCE COMPANY; ALLSTATE  
INDEMNITY COMPANY; and ALLSTATE  
FIRE & CASUALTY INSURANCE  
COMPANY.

Case No. 2:10-cv-02205-APG-NJK

**Plaintiffs.**

## ORDER

(Defs.' Objections to Magistrate Judge Order  
Granting Motion to Strike Second  
Supplemental Report of Defendants' Expert –  
dkt. no. 332)

v

PETER MARIO BALLE, D.C.; SEBASTIAN P. BALLE, M.D., ARTHUR ROSSI, D.C.; RICHARD CHARETTE; ELITE ATL, LLC., ACCIDENT INJURY MEDICAL CENTER, INC.; ACCIDENT TRIAL LAWYERS, LLC.; REAL TIME MARKETING, INC.; EXPERT MANAGEMENT, INC.; ANDREW TAYLOR; RAMSEY AND ASSOCIATES, INC.; and DENNIS RAMSEY

## Defendants

Before the Court is Defendants Accident Injury Medical Center, Inc. and Sebastian P. Balle, M.D.’s (“Defendants”) Objection [Dkt. #332] to Magistrate Judge Koppe’s October 28, 2013 Order [Dkt. #329] granting Plaintiffs’ Motion to Strike the Second Supplemental Report of Defendants’ Expert.

A magistrate judge's order should be set aside only if it is clearly erroneous or contrary to law. Fed. R. Civ. P. 72(a); LR IB 3-1(a); 28 U.S.C. § 636(b)(1)(A); *Laxalt v. McClatchy*, 602 F. Supp. 214, 216 (D. Nev. 1985). A magistrate judge's order is "clearly erroneous" if the court has

1 “a definite and firm conviction that a mistake has been committed.” *See United States v. U.S.*  
2 *Gypsum Co.*, 333 U.S. 364, 395 (1948); *Burdick v. Comm’r IRS*, 979 F.2d 1369, 1370 (9th Cir.  
3 1992). The magistrate judge “is afforded broad discretion, which will be overruled only if  
4 abused.” *Columbia Pictures, Inc. v. Bunnell*, 245 F.R.D. 443, 446 (C.D. Cal. 2007). The district  
5 judge “may not simply substitute its judgment” for that of the magistrate judge. *Grimes v. City*  
6 *and County of San Francisco*, 951 F.2d 236, 241 (9th Cir. 1991) (citing *United States v. BNS,*  
7 *Inc.*, 858 F.2d 456, 464 (9th Cir.1988)).

8 Defendants' Motion does not raise any issue or argument that creates a "definite and firm  
9 conviction that a mistake has been committed." Therefore, Defendants' Motion is denied.

10 IT IS SO ORDERED this 5<sup>th</sup> day of December, 2013.

ANDREW P. GORDON  
UNITED STATES DISTRICT JUDGE